

1 did it a couple of times. And I had gone down to L.A.
2 to visit with a friend. And I think we smoked some when
3 we went out one night, and I had a very scary incident.
4 And I never touched it again.

5 Q Just -- what was the incident? Was it just --
6 you mean your reaction to it, right?

7 A Yes.

8 Q And that was something that made you
9 uncomfortable, smoking marijuana?

10 A Yes. And I -- I know that when -- if I'm ever
11 around any -- that smell at all, it sort of takes my
12 breath away. So I have made an assumption that I have
13 an allergy to it.

14 Q And when do you think was the last time you
15 smoked marijuana? If you could give me the year.

16 A '81. That was the first and last.

17 Q '81?

18 A The summer that they were with their dad was the
19 first and the last time.

20 Q I think counsel asked you before if you had
21 dated a black man, and I think you said that you had at
22 some point in time?

23 A Yes.

24 Q And do you know what the time period of that
25 relationship was?

Objection
-FRE 402
and 403

Continued
objection

1 A I believe it was the first year I was home.

2 '80 -- either '81 or '82.

3 Q And how long did that relationship last?

4 A About six months.

5 Q What is that gentleman's name, if you remember?

6 A Chuck Starks.

7 Q Starks. Do you know where Mr. Starks currently
8 reside?

9 A I do not.

10 Q After your husband, Ray Spencer, pled guilty,
11 did you have any further conversations from that point
12 in time up until today with Sharon Krause?

13 A I don't recall. There may have been one phone
14 call. I don't remember.

15 Q When Mr. Spencer had its sentence commuted, do
16 you recall if you had a conversation with Sharon Krause
17 in that time period?

18 A I do not.

19 Q When do you remember is the last time you spoke
20 to Sharon Krause about this case?

21 A Years ago. I mean -- like before or shortly
22 after he was sentenced may have been the last time. I
23 have not had contact with her.

24 Q Was that a telephone call?

25 A I believe so.

1 Q Did Ms. Krause make the phone call to you?

2 A I believe so, but I don't recall.

3 Q Do you remember what was discussed in that
4 conversation?

5 A No, I do not.

6 Q Let's go back to the videotape that was made of
7 your daughter Kathryn in December of 1985.

8 You had met the night before the videotape was
9 made or the day before with the prosecutor Jim Peters,
10 correct?

11 A I believe so, yes.

12 Q Can you tell me, where did you and Katie meet
13 with Mr. Peters?

14 A As far as I can remember, it was at the police
15 station.

16 Q And do you know if it was in the morning,
17 afternoon, evening?

18 A I can't remember if it was -- I believe it was
19 in the morning before.

20 Q And how long were you at the police station with
21 Mr. Peters?

22 A I don't -- I don't recall.

23 Q Do you recall that Mr. Peters went over Katie's
24 statements with her?

25 A No, I do not recall that.

1 Q Okay. Let's go to what we've previously marked
2 as Exhibit 26. That was the transcript that counsel had
3 talked to you about earlier.

4 A I have it.

5 Q If you look at page 1, probably about ten lines
6 up from the bottom where Mr. Peters says "Kind of noisy.
7 Well, you know what I heard last night. I heard you
8 were going to come talk to me today and tell me the
9 stuff that you came up here to tell me yesterday; is
10 that right?"

11 Do you see that statement?

12 A Yes.

13 Q Does that refresh your recollection that the
14 night before that Katie had talked to Mr. Peters about
15 what she was going to tell him about on the video?

16 A No, it does not.

17 Q You don't have any recollection of that?

18 A I do not.

19 Q Okay. Do you remember anything that you talked
20 to or Katie talked to Mr. Peters about the day before
21 this interview?

22 A I do not.

23 Q And who was your understanding -- because your
24 daughter had already been interviewed a few times. What
25 was your understanding of why Mr. Peters -- I'm assuming

1 the night before he said, "We're going to videotape the
2 interview," correct?

3 A I believe so, yes.

4 Q And what was your understanding of why
5 Mr. Peters wanted to re-interview Katie?

6 MS. FETTERLY: Object to form.

7 You can answer.

8 THE WITNESS: I -- I don't know.

9 BY MS. ZELLNER:

10 Q She had already been interviewed, correct?

11 MS. FETTERLY: Object to form. By whom?

12 Mr. Peters or others?

13 MS. ZELLNER: Yeah. By anyone.

14 BY MS. ZELLNER:

15 Q She's already been interviewed about the
16 incident, correct?

17 A She had been interviewed about the incident,
18 yes.

19 Q So you're flown in to see Mr. Peters. Do you
20 not remember why he told you you were visiting him?

21 A My understanding was that they were going to
22 videotape Katie.

23 Q Right. And I'm just asking you -- I mean, they
24 were going to videotape Katie so that they could listen
25 to her tell the story, correct?

1 A Yes.

2 Q Isn't that right?

3 A Yes. I said yes.

4 Q They're creating a record of her telling the
5 story. Was that your understanding?

6 A Yes.

7 Q Okay. Now, if we go to page 3 of the -- of
8 Exhibit 26, and you'll see that there's a time on there
9 of 10:00 o'clock.

10 Do you see that?

11 A Yes.

12 Q And right above that, it says -- talking to
13 Katie about her therapist Ann. He says, "Was there a
14 lady in Sacramento? What's her name? You told me
15 yesterday, but I forgot."

16 And Katie says "Ann."

17 And then Peters says, "Ann. That's right.
18 She's the lady that you go to her office once a week."

19 Do you see that text?

20 A Yes.

21 MS. FETTERLY: At this point, Ms. Zellner, I'm
22 not going to interrupt your questioning of this witness
23 about this exhibit, but I'm just going to voice a
24 continuing objection to the use of Exhibit 26 because it
25 purports to be a transcript of this interview, but it

1 was not prepared by a certified court reporter, who has
2 no interest in the outcome of this lawsuit.

3 With that objection, you can answer.

4 MS. ZELLNER: You can make your continuing
5 objection.

6 BY MS. ZELLNER:

7 Q But I'm asking, Ms. Spencer, do you see the
8 reference that Mr. Peters says, "You play in her office.
9 Okay. And you talk to her about this stuff"?

10 Do you see that?

11 A I do.

12 Q And then he says, "Okay. Well, I heard last
13 night -- I got -- I got a call on the phone from Sharon
14 that you -- that you said you were going to talk to me
15 about it, too; is that right?"

16 Do you see that statement?

17 A I do.

18 Q Okay. Does that refresh your recollection about
19 any conversation with Mr. Peters the night before, the
20 day before?

21 A No.

22 Q Okay. Let's go to page 5. Midway down on the
23 dialogue, Mr. Peters says, "You talked to Sharon about
24 how important it is for you to tell what happened?
25 Remember how we've got to get your daddy some help so he

1 won't do this again to you or anybody else?"

2 Do you see that?

3 A I do.

4 Q And was it -- is it a fair statement to say that
5 you believe that your ex-husband, Ray Spencer, needed to
6 get help for this supposed sickness that he had?

7 A Yes.

8 Q And do you recall Mr. Peters also telling Katie
9 that "We've got to get Daddy some help"?

10 A I recall very little about that interview other
11 than my daughter being quiet most of the time.

12 Q Okay. If we go to the top of page 6, and it's
13 the first entry by you. And you say to Katie, "Remember
14 what you told me last night?"

15 Do you see that?

16 A I do.

17 Q Do you have any recollection of reviewing
18 Katie's testimony with her the night before?

19 A I do not. I was dealing with a migraine
20 headache.

21 Q Okay. The night before or during the taping?

22 A Both.

23 Q Okay. Is that something you suffer from?

24 A Not anymore.

25 THE REPORTER: I'm sorry, Ms. Zellner --

1 Can you have her repeat that, please?

2 MS. FETTERLY: The court reporter asked you to
3 repeat the question, Ms. Zellner. She didn't get it.

4 BY MR. ZELLNER:

5 Q Had you been diagnosed with migraine headaches
6 at the time of the videotaped interview?

7 A Not diagnosed.

8 Q Were you being treated for migraines?

9 A Just with -- by myself.

10 Q If we look a little further down on page 6, it's
11 the next statement by you. You say -- what it starts
12 with, "Remember how I helped you last night?"

13 Do you see that entry? It's on page 6.

14 A I'm looking. I see it.

15 Q Do you remember referring to what had been done
16 last night, saying "Remember how you helped me last
17 night?"

18 Do you remember saying that to your daughter?

19 A No.

20 Q Okay. Let's go to page 7 at the top right above
21 the "25."

22 Do you see the "25"?

23 A I do.

24 Q It states "So you know it's important to always
25 tell the truth." And Katie says, "Stop saying that. I

1 hate that word. It's dumb."

2 Do you recall that statement?

3 A I see it.

4 Q And if you go a little further down, Mr. Peters
5 says, "Well, let's see, this is your daddy and this is
6 Katie. Show me what happened last summer. Okay? Then
7 we can stop all this."

8 Do you see that statement? Do you see that?

9 A I'm looking for it.

10 Q Okay. It's right underneath the "25."

11 A I see it. I see it.

12 Q And your daughter, Katie, says, "Nothing
13 happened last summer."

14 "Mr. Peters: Nothing happened?"

15 "DeAnne: Okay. Deep breath."

16 "Katie: Mom, nothing happened last summer."

17 Do you see those statements?

18 A Yes.

19 Q You remember in the interview that Katie made
20 those statements, don't you?

21 A I remember in the interview that Katie said very
22 little. Mostly it was head shake. She was very
23 resistant to say -- use words.

24 Q Okay. But do you doubt that Katie said in this
25 passage "Nothing happened last summer"?

Deposition of Deanne Spencer

SPENCER VS. PETERS

1 A I can't respond to that because I do not recall
2 this -- these many words being said. Very little was
3 said by my daughter. So I cannot recall something like
4 that. That's pretty wordy.

5 Q Do you think that these words were not said in
6 that interview?

7 A As I've stated, my recollection is very little
8 was said by my daughter in this interview.

9 Q When was the last time you reviewed this
10 videotape?

11 A I think the only time I saw it was on the 20/20
12 show.

13 Q And they didn't play the full video, correct?

14 A I don't know.

15 Q So it would be a fair statement to say that's
16 the only time that you've seen the video?

17 A That I recall.

18 Q Now, if we go down further on 7, the quote from
19 you that's up -- not the bottom of the page but the one
20 that's right above it. "You don't have to say anything.
21 Just move the dolls."

22 Do you see that statement?

23 A I do. I do.

24 Q Did you make that statement?

25 A I don't recall.

1 Q You don't know one way or the other?

2 A I do not.

3 Q If you go to the top of page 8, the second --
4 third time your name is mentioned above the number 30.

5 It says, "You can hold my hand if you need to. Okay?

6 You want to use my hand. Okay? Tell me what to do.

7 You tell me what to do and then we're gonna get this all
8 over with. All right? Cause we can do it, right?"

9 Do you see that passage?

10 A I do.

11 Q Would it be a fair statement to say that you
12 wanted your daughter to describe the abuse for
13 Mr. Peters so that you can get it all over with?

14 A I would not say that's a fair statement.

15 Q Now, if we go to page 10.

16 A I'm there.

17 Q In the middle of the page you're quoted as
18 saying, "Can you show us with the doll." And you see
19 Katie says "Nuh-uh."

20 Do you see that?

21 A Yes.

22 Q Okay. And would you agree with me at that point
23 that Katie wasn't really demonstrating anything with the
24 doll?

25 A I don't recall. It was -- I don't recall a lot

1 about the interview. I just know that she wasn't saying
2 a lot.

3 Q If we go down a little farther, Mr. Peters says,
4 "How about with my finger? That's just a little finger.
5 Or show me with your finger." And Katie says "No." You
6 say "How about mine?" Katie says "No."

7 Do you see that passage?

8 A I see it.

9 Q Okay. And do you have any contrary recollection
10 that Katie was at that point in time unwilling to show
11 anything with Mr. Peters' finger or your finger?

12 A I don't know. I -- like I said, I recall very
13 little about the interview, but there were very little
14 words said.

15 Q So you would -- you think that this transcript
16 is putting in words that weren't said?

17 A I'm not comfortable with this transcript.

18 Q Okay. But you're comfortable with the video,
19 right, the words on the video?

20 A I've only seen a portion of the video. I don't
21 know what words are being said.

22 Q But when you saw it, it didn't appear to be
23 altered, did it?

24 A How would I know? No. I don't know.

25 Q Page 11, at the top. Now, you had told us that

1 there was a man running the video; is that correct?

2 A Correct.

3 Q During this interview?

4 A Yes.

5 Q And you recall -- you said that he was wearing a
6 uniform?

7 A Police officer's uniform, yes.

8 Q Okay. And Peter specifically asked, "You want
9 Jeff to leave. Jeff, the man standing right over there,
10 right?"

11 Do you see that question? It's about eight down
12 from the top?

13 A Yes.

14 Q And then you say, "Do you want him to go out?
15 If he goes out, will you show us?" Then you say, "Okay.
16 Then let's get brave one more time. Squeeze my hand,
17 come on. You can do this."

18 Do you see that?

19 A I do.

20 Q And would you agree with me, certainly in this
21 transcript, there's no indication of Katie saying that
22 she wants Jeff to leave the room. Just in this
23 transcript.

24 Do you see any indication of that?

25 A Not in this transcript.

1 Q Okay. Do you believe that Katie signaled or did
2 something that will show us on the video she wanted Jeff
3 to leave the room?

4 A I can only respond to her behavior before and
5 after.

6 Q Her behavior before and after what?

7 A Before, when he was in the room; and after, when
8 we moved to the other room without him.

9 Q And you made -- after this interview, have you
10 ever made a statement to anyone at any time that the
11 reason Katie got more comfortable was because Jeff left
12 the room?

13 A I don't know if I ever made that statement, but
14 it was my conversation that she was much more at ease
15 and comfortable when the uniformed police officer left
16 the room.

17 Q And in your journals, would I find that you
18 noted that in your journals?

19 A I do not know. I haven't looked at my journals
20 in a good ten years, maybe.

21 Q Those were written at the time of these
22 incidents, correct?

23 A Yes.

24 Q So would I expect that if something like that
25 that happened, that would be in your journal?

1 A I don't know. Probably. Could be.

2 Q Would there have been any reason not to put in
3 something that's significant?

4 A Say that again, please.

5 MS. FETTERLY: Object as to form.

6 You can answer, if you can.

7 BY MS. ZELLNER:

8 Q Saying that -- you do remember all these years
9 later that Katie was uncomfortable with the uniformed
10 policeman.

11 Is that what you're telling us?

12 A I am.

13 Q And you kept journals apparently at the time of
14 these various incidents; isn't that correct?

15 A I kept some, yes.

16 Q And would there be any reason in the journal
17 that we wouldn't see reference to Jeff leaving the room
18 and Katie being uncomfortable?

19 A It depends on how detailed I was writing.
20 Again, I was dealing with a migraine headache. And I
21 don't know if I brought my journals with me up there.

22 Q Was your memory better today than it was back
23 then?

24 A I beg your pardon?

25 Q Is your memory better today than it was back

1 then at the time of the incident?

2 A Is my memory better now than back then?

3 Q Right.

4 A I don't know.

5 Q Right. Let's go to page 12 right before the
6 break where it says "Taping stops at 10:46 a.m."

7 A Uh-huh.

8 Q Do you see that?

9 A I do.

10 Q And you see that Peter says, "Okay. I think --
11 I think we should take a break now. I think you're
12 getting pretty tired, huh? Let's take a break and go
13 get a drink of water or something. All right?"

14 Do you see that?

15 A I do.

16 Q And was your daughter provided with anything to
17 drink?

18 A I believe we may have gotten sodas.

19 Q And where do you remember you went to go get the
20 sodas?

21 A I don't know if it was just a vending machine in
22 the police department.

23 Q And then where did you -- where did you sit?
24 Did you go back in the room, or did you sit in another
25 room?

1 A I don't remember.

2 Q And what was done with the dolls on the break?

3 A I --

4 Q If you remember.

5 A I don't remember what was done with the dolls,

6 no.

7 Q Now, you said, after the break, Katie was more
8 cooperative, right?

9 A Yes. She was more at ease.

10 Q Now, if we go to page 13 of Exhibit 26, at the
11 top, you see Mr. Peters says, "Okay. What else did Ray
12 do?"

13 A I see.

14 Q And then he says, "Okay. What else? Anything
15 else?" And then Katie says "Forgot that last thing."
16 Do you see that statement?

17 A I do.

18 Q And do you have any reason to doubt that Katie
19 made that statement, "Forgot that last thing"?

20 A As I recall, my daughter said very little. So
21 when you ask me to refer to these statements that she
22 made, I don't recall her making very many statements
23 other than, yes, or no or shaking her head. So I
24 can't --

25 Q But you understand that we have the tape, and we

Deposition of Deanne Spencer

SPENCER VS. PETERS

1 have the words on the tape, correct?

2 A I do now.

3 Q If you look at page 14, and if you come down
4 about probably 13 lines, it says "Peters" --

5 A Okay.

6 Q -- "How come you told me they were upstairs?"
7 And he says, "Huh? Did you forget?" And Katie answers,
8 "Yes." Peter says, "Okay. That's fine. Well, do you
9 remember -- before this time that you just told me
10 about, did Ray do that to you before?"

11 Do you see that statement?

12 A I do.

13 Q Now, do you remember that when the -- when the
14 break was taken that there was discussion between Peters
15 and Katie of what she was going to say?

16 A There was no discussion in my presence about
17 what Katie was to say.

18 Q You're 100 percent positive of that?

19 A I was very cautious about what was said around
20 my children. And there was no discussion about what to
21 say or anything other -- that I recall.

22 Q Okay. When you say "in your presence," isn't it
23 true that on the break that Sharon Krause also rejoined
24 you, your daughter, and Peters for a few minutes?

25 A I believe so.

1 Q And so did you observe your daughter having any
2 interaction with Sharon Krause?

3 A Other than "hi" conversations?

4 Q I am correct that Sharon Krause was with you and
5 Mr. Peters and Katie on the break, correct?

6 A I believe so.

7 Q This break takes over an hour. Do you recall
8 that?

9 A I do not.

10 Q Why do you still use your ex-husband's last
11 name?

12 A When I divorced their father, and especially
13 after this incident occurred, I did not want my children
14 to think I was divorcing myself from them and that I was
15 not wanting to identify with who they were, which was a
16 Spencer. So I kept his last name.

17 Q So even though he's been convicted of these
18 terrible crimes, you decided to keep his last name?

19 A If I kept his last name, then my children would
20 not think, in my opinion and in my belief -- if I kept
21 his last name, then they couldn't be bad people because
22 my name was their name. And that if -- even though
23 their father, who I told them was ill and needed help --
24 I did not want them to think that they would also be
25 ill.

Deposition of Deanne Spencer

SPENCER VS. PETERS

1 Q Okay. When you leave after Katie's
2 videotaped -- actually, when you go back in the room for
3 the second part of the videotaping, do you move to a
4 different location?

5 A I believe we moved to a different room.

6 Q Was that -- or were you led to believe that was
7 Sharon Krause's office?

8 A I don't recall.

9 Q Was it an office-like room, or was it more of a
10 conference room? Do you remember?

11 A I believe it was more like a small conference
12 room with a table and some chairs.

13 Q Do you remember; were you upstairs or downstairs
14 in the Sheriff's building?

15 A I don't recall.

16 Q And when the video is concluded, I'm sure that
17 you have a brief discussion with Mr. Peters. Do you
18 remember that conversation with Mr. Peters when the
19 video ended?

20 A I do not.

21 Q Do you remember seeing Mr. -- Sharon Krause
22 around? Did she come back in the room at the end of the
23 video?

24 A I don't remember.

25 Q Okay. And do you see Mr. Peters take the

Object
Det. 201,
p. 3-4

* If Peters interview evidence is admitted, depositions will introduce depositions p. 154, ln. 25
- p. 155, ln. 5.

Deposition of Deanne Spencer

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1 videotape out of the camera?

2 A I don't remember.

3 Q And did you observe, at any point, the videotape
4 being put in a desk drawer?

5 A I don't remember.

6 Q And did you think it was important for the
7 videotape to be made?

8 A I did.

9 Q Well, you went to all of the effort to travel
10 there, right, to try to cooperate so they can make the
11 videotape?

12 A Correct.

13 Q And you would agree with me certainly in the
14 first half of the tape that it's somewhat stressful for
15 Katie to go through the interview?

16 A Yes.

17 Q And you would not have put your daughter through
18 that for no reason, right?

19 A Correct.

20 Q And assuming as a good mother, which you seem to
21 be, that you would be concerned and want to make sure
22 that Katie's statements were true and correct about what
23 had happened?

24 A Yes.

25 Q And your understanding was the videotape was

Object
Dkt. 201,
p. 3-4

1 being made to document Katie's statements, correct?

2 A Yes.

3 Q Okay. Oh, just a couple more questions.

4 I think you had told us earlier that you had
5 taken a polygraph; is that right?

6 A That's correct.

7 Q That was really early on in the whole
8 investigation?

9 A Yes.

10 Q Okay. And then did you take that -- was that
11 through Detective Flood that you took the polygraph?

12 A I believe so. It was here in Sacramento.

13 Q Okay. And then you were cleared -- or at least
14 that's what you were told, right? You were cleared by
15 the polygraph?

16 A Yes.

17 Q Did anyone ever show you a written report of the
18 polygraph or were you just contacted and told you passed
19 it?

20 A I don't recall if I got a copy or anything. I
21 don't -- I think I was just contacted.

22 Q Okay. But that's -- that was your understanding
23 of how they cleared you from the initial group of people
24 that Katie had accused; is that right?

25 A That's correct.

1 Q And during the time that that -- you know, I
2 read you some of the statements that Shirley Spencer had
3 made about, you know, her opinion about you as a mother.
4 But do you believe that your children were comfortable
5 going to Ray Spencer's home with Shirley Spencer
6 involved in their care?

7 A The first summer that they went up was the
8 summer that he was getting married, and they didn't know
9 her. So I don't know if they were comfortable or not.
10 They were not wanting to go up there the next summer,
11 which was 1984. And I don't know if it was they were
12 not comfortable with her or their dad.

13 Q And when Katie -- after Ray Spencer had married
14 Shirley Spencer and Katie was going there in the
15 summers, she was quite young? Wasn't she, like, two,
16 three, four years old?

17 A Let's see. I think she was three when they got
18 married -- no, she was four when they got married. I
19 think they got married in '83.

20 Q And would you describe her as sort of a mama's
21 girl where she would really miss you when she'd go away
22 because that's fairly young to go away for that many
23 weeks? Did she get homesick?

Objection
-Speculation

24 A I don't know if she got homesick because that
25 was never related to me, but I know that she -- in '84

1 she did not want to go.

2 Q Okay. And would you say that during that time
3 period she -- you and she had a close relationship,
4 wouldn't you say?

5 A Yes.

6 Q And you continued that relationship up until the
7 present time?

8 A Yes.

9 Q I'm sorry. Are you there?

10 A Yes. My response was "Yes."

11 Q You said "Yes," right? You still have a close
12 relationship with Katie?

13 A That's correct.

14 MS. ZELLNER: Okay. I don't have any further
15 questions.

16 MS. FETTERLY: I have a couple of follow-up
17 questions. I just need a minute to pull out a document.

18 Just a couple more questions, Ms. Spencer.

19 FURTHER EXAMINATION

20 BY MS. FETTERLY:

21 Q Was your son, Matt, ever interviewed by Jim
22 Peters other than the interview that took place with
23 Mr. Rule and Jim Peters in Sacramento on May 9th, 1985?

24 A No.

25 Q Referring back to Exhibit 1 that Ms. Zellner was

Objection
-Dkt. 202 at
15.

1 questioning you about some statements in Exhibit 1,
2 which is -- let me hand that to you. It's at least --
3 it appears to be a continuation of a report by -- of
4 Detective Flood -- it's part of Detective Flood's
5 report; is that correct? Would that be accurate?
6 Referring to Exhibit 1.

7 The reason I say that, Counsel, because the
8 cover page of the report isn't here.

9 A Oh, it says down here "Investigative Officer
10 Detective Flood."

11 Q Okay. Would you agree that is part of Detective
12 Flood's report?

13 A Yes.

14 Q And I want to turn to the third page of Exhibit
15 1, which I think is -- yeah. It's page 3 of the report
16 as well.

17 The indented paragraph that starts out "On
18 Friday night, all of us slept downstairs."

19 A Yes.

20 Q Looking at the paragraph above that, can you
21 tell where Detective Flood got the information that's
22 set forth in this paragraph?

23 A It looks like he called Shirley.

24 Q Can you infer from this that he received the
25 information he put in this indented paragraph on page 3

Objection to
page 158,
line 25 to
page 160,
line 14
-Speculation
-Lack of
foundation
-Ms. Spencer
cannot
testify
about her
deductions
and the
intent of
detective
Flood's
report.

1 from Shirley Spencer?

2 A Yes.

3 Q That's what the report says?

4 A Yes.

Continued
objection

5 Q And that's the paragraph Ms. Zellner questioned
6 you about which contains a statement -- and actually,
7 it's the second-to-the-last sentence. "One time while
8 her dad was hunting, Kathryn said her mom wanted her to
9 rub her titties and peepee." And it goes on to have
10 some other statements, correct?

11 A Correct.

12 Q Okay. And you -- so this information came to
13 Detective Flood per the report from Shirley Spencer?

14 A Yes.

15 Q And you indicated that Kathryn did call Shirley
16 "Mom"?

17 A Yes.

18 Q Okay. Now, how old was Kathryn when you and her
19 father stopped living together? Was she under the age
20 of one?

21 A No. She was -- it was December before her
22 second birthday.

23 Q Second birthday. Do you think it unlikely she
24 would have had any memory of an event that occurred
25 before you and Ray separated?

See next
page

Deposition of Deanne Spencer

SPENCER VS. PETERS

Objection to
carry over
question/
answer.
-Calls for
speculation
and lacks
foundation.

1 A I -- I don't see how she could.

2 Q Okay. Now, there was also some mention in
3 Ms. Zellner's questions about statements that Karen
4 Stone made to Detective Krause that were reflected in a
5 report that the children were often dirty when they came
6 to see their father in the summers.

7 And you stated that wasn't the case; is that
8 correct?

9 A That's correct.

10 Q And there were also some similar statements
11 attributed to Shirley Spencer.

12 A Correct.

13 Q Do you recall that line of questioning?

14 A Yes.

15 Q Now, taking you back to August 29, 1984, when
16 Detective -- you came home from work and Detective Flood
17 from the Sacramento Sheriff's Office was standing in
18 your driveway. You appeared to have a very clear
19 recollection of that day; is that correct?

Objection
-FRE 402
-FRE 403

20 A I do.

21 Q And why is that?

22 A It was probably the most devastating day I've
23 ever experienced.

24 Q I'm sorry to upset you -- and take a sip of
25 water or a break -- by bringing this up again.

1 And I believe you testified that your first
2 thought was that your former husband had obtained
3 custody of your children and you thought that Detective
4 Flood was there to pick them up pursuant to some sort of
5 court order from Washington. Is that what went through
6 your mind?

7 A Yes. My first thought was "Oh, my God. He's
8 got custody."

9 Q And why would you have a fear like that? I
10 mean, your divorce has been over for a period of years.
11 It appears that you had a contested custody battle that
12 was resolved in your favor; is that right?

13 A (Witness nods head.)

14 Q Why did you have that fear?

15 A Just some small incidences that kept occurring.
16 For example, every time the children came back from
17 their father's, my son would say, "Mommy, Daddy thinks
18 that I should live with him and Kathryn should live with
19 you." And I just -- I just was afraid that's what he
20 was trying to do.

21 Q Okay. Do you think it's possible that those
22 statements -- that would reflect negatively on your
23 ability as a parent were made -- were motivated by this
24 possible desire by your former husband to obtain
25 custody?

Continued
objection
to line 20
based on
lack of
relevancy
or
probative
value -
FRE 402
and 403.

See next
page

Deposition of Deanne Spencer

SPENCER VS. PETERS

Objection
to
carry over
and
through
line 9.
-Asking
witness
to
speculate;
lack of
foundation

1 A Yes.

2 Q Okay. So do you evaluate the veracity of such
3 statement meaning -- that the children were dirty when
4 they would come for visitation, that you were neglectful
5 as a mother, that your interests were primarily on a
6 social life -- do you attribute those -- those
7 statements to furthering -- possibly furthering that
8 goal?

9 A I could see no other reason.

10 Q Okay. Because I take it they were not true?

11 A They were not.

12 Q In fact, they were completely false; is that
13 correct?

14 A Absolutely.

15 MS. FETTERLY: I have no further questions.

16 MR. FREIMUND: I have no further questions.

17 Thank you again.

18 THE VIDEOGRAPHER: This concludes the deposition
19 of DeAnne Spencer. And the time is 1:32 p.m.

20 MS. FETTERLY: Ms. Spencer, I am going to order
21 a transcript of this. I'm sure the other lawyers will
22 get it as well. It will be typed up. And you'll have
23 an opportunity to come here to the reporter's office and
24 review it for accuracy and then sign or make any
25 corrections on a correction sheet, or you can waive that

Deposition of Deanne Spencer

SPENCER VS. PETERS

1 right.

2 What is your preference?

3 THE WITNESS: I will waive that right.

4 MS. FETTERLY: Okay. You're waiving the
5 right --

6 MR. BOGDANOVICH: This is Guy Bogdanovich. I'm
7 going to also state an objection for the record
8 especially since I wasn't able to see the, apparently,
9 large stack of exhibits that plaintiff's counsel
10 submitted for Ms. Spencer's deposition. I'm going to
11 object to any exhibits that do have markings on them
12 that are not part of the original documents
13 unidentified.

14 MS. FETTERLY: Correct.

15 MS. ZELLNER: Fine. We didn't get notice of the
16 deposition at all and found out about it when we were
17 out there. So there was no notice sent to our office.
18 But we've continually maintained we're not going to be
19 using the writing on the exhibits. And Ms. Fetterly
20 said she'd provide us with clean copies. So I think
21 we've crossed that bridge.

22 MS. FETTERLY: And, Counsel, do you want to
23 handle -- we're off the record now, I think.

24 THE REPORTER: Ms. Zellner, would you like a
25 copy of the transcript?

1 MS. ZELLNER: I would.

2 THE REPORTER: Would you like copies of the
3 exhibits, as well?

4 MS. ZELLNER: Yes. I would like them attached.

5 THE REPORTER: Would you like a copy of the
6 transcript?

7 MR. FREIMUND: I would like an E-tran, please,
8 if that's possible.

9 THE REPORTER: Do you want the hard copy or just
10 E-tran?

11 MR. FREIMUND: E-tran is sufficient for me.

12 THE REPORTER: And just scan the exhibits as
13 well rather than a hard copy?

14 MR. FREIMUND: That would be satisfactory, yes.

15 MR. BOGDANOVICH: Same for me, please. This is
16 Guy Bogdanovich.

17 MS. ZELLNER: We would like the E-tran and the
18 hard copy.

19 MS. FETTERLY: And I would as well.

20 (Deposition concluded at 1:36 p.m.)

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Deposition of Deanne Spencer

SPENCER VS. PETERS

1 CASE: SPENCER, et al. vs. PETERS, et al.

2 DATE: November 16, 2012

3

4 Please be advised I have read the foregoing deposition,
5 and I hereby state there are:

6 (Check one)

7

_____ NO CORRECTIONS

8

_____ CORRECTIONS ATTACHED

9

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11

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DeANNE SPENCER

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Date Signed

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1 REPORTER'S CERTIFICATION OF PROCEEDINGS
2
3

4 I, Jennifer F. Milne, CSR #10894, a Certified
5 Shorthand Reporter in and for the State of California,
6 do hereby certify that, prior to being examined, the
7 witness named in the foregoing deposition was by me duly
8 sworn to testify the truth, the whole truth, and nothing
9 but the truth; that said deposition was taken down by me
10 in shorthand at the time and place named therein and was
11 thereafter transcribed under my supervision; that this
12 transcript contains a full, true and correct record of
13 the proceedings which took place at the time and place
14 set forth in the caption hereto.

15 I further certify that I have no interest in the
16 event of this action.
17
18

19 EXECUTED

November 29, 2014

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21
22 
23 JENNIFER MILNE
24
25